

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HELAL AHMED, PARVEZ ALI, MD. G. MIAH,
ENAMUL SHAKUR, CARLOS ORTIZ,
GRZEGORZ KOCIECKI, MAHBUBUL KARIM,
TANVIR SHAHID, ADRIAN DOMINGUEZ RESENDIZ,
CESAR ABAMBARI, HORACIO HERNANDEZ,
JOSE REYES, PATRICIO GONZALEZ,
SHAILENDRA SHRESTHA, AND ROHIT TALWAR,
MARCOS REYES, ROBERTO SEGUNDO,
FELIX SEGUNDO, and AUGUSTIN REYES, on behalf of
themselves and other similarly situated current and
former restaurant workers employed by defendants,

07 Civ. 3512 (JSR) (FM)

**ANSWER TO THIRD
AMENDED COMPLAINT**

JURY TRIAL DEMANDED

Plaintiffs,

-against-

DEVI RESTAURANT, LTD., RAKESH AGGARWAL,
SUVIR SARAN, and HEMANT MATHUR,

Defendants.

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Defendants, 8 East 18th Street Restaurant, LLC, s/h/a Devi Restaurant, Ltd.,
("Devi"), and Rakesh Aggarwal, by their attorneys Mitchell & Incantalupo, as and for their
answer to the Third Amended Complaint, allege and state that they:

PRELIMINARY STATEMENT

1. Deny the allegations set forth in paragraph "1" of the Third Amended
Complaint, except admit that Plaintiffs purport to proceed against Defendants as set
forth therein.

2. Deny the allegations set forth in paragraph "2" of the Third Amended
Complaint, except admit that Devi was owned and operated by defendant Aggarwal until
approximately August 27, 2007, when the restaurant closed.

3. Deny the allegations set forth in paragraph "3" of the Third Amended
Complaint.

4. Deny the allegations set forth in paragraph “4” of the Third Amended Complaint, except admit that Plaintiffs purport to proceed as set forth therein.

JURISDICTION

5. Deny the allegations set forth in paragraph “5” of the Third Amended Complaint, except admit that the jurisdiction of this Court is purportedly invoked as set forth therein.

6. Deny the allegations set forth in paragraph “6” of the Third Amended Complaint, except admit that Plaintiffs purport to proceed as set forth therein.

7. Admit that Devi was located in Manhattan.

PARTIES

8. Deny the allegations set forth in paragraph “8” of the Third Amended Complaint, except admit that some of the Plaintiffs used to work for Devi serving customers.

9. Deny the allegations set forth in paragraph “9” of the Third Amended Complaint, except admit that some of the Plaintiffs used to work for Devi in the kitchen.

10. Deny that they possess knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph “10” of the Third Amended Complaint.

11. Deny the allegations set forth in paragraph “11” of the Third Amended Complaint require a response and affirmatively assert that the meaning and construction of the statutes are for the Court to determine.

12. Deny the allegations set forth in paragraph “12” of the Third Amended Complaint, except admit that Devi had annual gross sales in excess of \$500,000.00. Defendants further affirmatively respond that Devi was a limited liability corporation formed and organized under the laws of the State of New York in 2002 under the name 8 East 18th Street Restaurant, LLC.

13. Admit so much of the allegations set forth in paragraph "13" of the Third Amended Complaint as asserts that Aggarwal was sole owner of Devi until recently, but deny that he still has any power over the management of the new restaurant.

14. Deny that they have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph "14" of the Third Amended Complaint.

15. Deny that they have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph "15" of the Third Amended Complaint.

16. Deny that they have knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph "16" of the Third Amended Complaint.

17. Deny the allegations set forth in paragraph "17" of the Third Amended Complaint require a response and affirmatively assert that the meaning and construction of the statutes are for the Court to determine.

STATEMENT OF FACTS

18. Deny the allegations set forth in paragraph "18" of the Third Amended Complaint.

19. Deny the allegations set forth in paragraph "19" of the Third Amended Complaint.

20. Deny the allegations set forth in paragraph "20" of the Third Amended Complaint.

21. Deny the allegations set forth in paragraph "21" of the Third Amended Complaint.

22. Deny the allegations set forth in paragraph "22" of the Third Amended Complaint.

23. Deny the allegations set forth in paragraph "23" of the Third Amended Complaint.

24. Deny the allegations set forth in paragraph "24" of the Third Amended Complaint.

25. Deny the allegations set forth in paragraph "25" of the Third Amended Complaint.

26. Deny the allegations set forth in paragraph "26" of the Third Amended Complaint.

27. Deny the allegations set forth in paragraph "27" of the Third Amended Complaint.

28. Deny the allegations set forth in paragraph "28" of the Third Amended Complaint.

29. Deny the allegations set forth in paragraph "29" of the Third Amended Complaint.

30. Deny the allegations set forth in paragraph "30" of the Third Amended Complaint.

31. Deny that the allegations set forth in paragraph "31" of the Third Amended Complaint require a response.

32. Admit the allegations set forth in paragraph "32" of the Third Amended Complaint.

33. Deny the allegations set forth in paragraph "33" of the Third Amended Complaint.

34. Deny the allegations set forth in paragraph "34" of the Third Amended Complaint, except admit that another restaurant has opened at the same location.

FIRST CAUSE OF ACTION

36. Defendants Devi and Aggarwal repeat, reiterate and reallege each and every answer contained in paragraphs “1” through “35” as if more fully set forth at length herein.

37. Deny the allegations set forth in paragraph “37” of the Third Amended Complaint.

38. Deny the allegations set forth in paragraph “38” of the Third Amended Complaint.

39. Deny the allegations set forth in paragraph “39” of the Third Amended Complaint.

SECOND CAUSE OF ACTION

40. Defendants Devi and Aggarwal repeat, reiterate and reallege each and every answer contained in paragraphs “1” through “39” as if more fully set forth at length herein.

41. Deny the allegations set forth in paragraph “41” of the Third Amended Complaint.

42. Deny the allegations set forth in paragraph “42” of the Third Amended Complaint.

43. Deny the allegations set forth in paragraph “43” of the Third Amended Complaint

THIRD CAUSE OF ACTION

44. Defendants Devi and Aggarwal repeat, reiterate and reallege each and every answer contained in paragraphs “1” through “43” as if more fully set forth at length herein.

45. Deny the allegations set forth in paragraph “45” of the Third Amended Complaint.

46. Deny the allegations set forth in paragraph “46” of the Third Amended Complaint.

FOURTH CAUSE OF ACTION

47. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs “1” through “46” as if more fully set forth at length herein.

48. Deny the allegations set forth in paragraph “48” of the Third Amended Complaint.

49. Deny the allegations set forth in paragraph “49” of the Third Amended Complaint.

50. Deny the allegations set forth in paragraph “50” of the Third Amended Complaint.

51. Deny the allegations set forth in paragraph “51” of the Third Amended Complaint.

FIFTH CAUSE OF ACTION

52. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs “1” through “51” as if more fully set forth at length herein.

53. Deny the allegations set forth in paragraph “53” of the Third Amended Complaint.

54. Deny the allegations set forth in paragraph “54” of the Third Amended Complaint.

55. Deny the allegations set forth in paragraph “55” of the Third Amended Complaint.

SIXTH CAUSE OF ACTION

56. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "55" as if more fully set forth at length herein.

57. Deny the allegations set forth in paragraph "57" of the Third Amended Complaint.

58. Deny the allegations set forth in paragraph "58" of the Third Amended Complaint.

59. Deny the allegations set forth in paragraph "59" of the Third Amended Complaint.

SEVENTH CAUSE OF ACTION

60. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "59" as if more fully set forth at length herein.

61. Deny the allegations set forth in paragraph "61" of the Third Amended Complaint.

62. Deny the allegations set forth in paragraph "62" of the Third Amended Complaint.

63. Deny the allegations set forth in paragraph "63" of the Third Amended Complaint.

EIGHTH CAUSE OF ACTION

64. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs "1" through "63" as if more fully set forth at length herein.

65. Deny the allegations set forth in paragraph "65" of the Third Amended Complaint.

66. Deny the allegations set forth in paragraph "66" of the Third Amended Complaint.

67. Deny the allegations set forth in paragraph “67” of the Third Amended Complaint.

NINTH CAUSE OF ACTION

68. Deny the allegations set forth in paragraph “68” of the Third Amended Complaint.

69. Deny the allegations set forth in paragraph “69” of the Third Amended Complaint.

70. Deny the allegations set forth in paragraph “70” of the Third Amended Complaint.

TWELFTH CAUSE OF ACTION

71. Defendants repeat, reiterate and reallege each and every answer contained in paragraphs “1” through “70” as if more fully set forth at length herein.

72. Deny the allegations set forth in paragraph “72” of the Third Amended Complaint.

73. Deny the allegations set forth in paragraph “73” of the Third Amended Complaint.

74. Deny the allegations set forth in paragraph “74” of the Third Amended Complaint.

75. Deny the allegations set forth in paragraph “75” of the Third Amended Complaint.

76. Deny the allegations set forth in paragraph “76” of the Third Amended Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

77. All or part of the claims asserted herein by plaintiffs are barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

78. Defendants had legitimate business reasons for taking any of the acts alleged by the plaintiffs to have been retaliatory.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

79. Plaintiffs have failed to mitigate their alleged damages.

WHEREFORE, defendants 8 East 18th Street Restaurant, LLC, s/h/a Devi Restaurant, Ltd., and Rakesh Aggarwal request judgment dismissing the Complaint and denying all relief requested therein, together with the costs of defending this action, including reasonable attorney fees.

Dated: November 8, 2007
Forest Hills, New York

MITCHELL & INCANTALUPO

By: _____/S/
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*Attorneys for defendants 8 East 18th
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Restaurant, Ltd., and Rakesh
Aggarwal*